

**NURSING HOME ADMINISTRATOR EXAMINING BOARD
MINUTES
MARCH 18, 2004**

TELEPHONE: Dr. Robert Kessler, Robert Mulder, Jerry Schallock, Patricia Schulz (via telephone), Patricia Benesh (via telephone), and David Egan,

EXCUSED: Roxann Sobek

STAFF PRESENT: Jerry Lowrie, Bureau Director; Ruby Jefferson-Moore, Legal Counsel; Pat Schenck, Program Assistant; Judy Mender, Credentialing; Lydia Bridge, Exam Center; and Division of Enforcement Staff

CALL TO ORDER

Jerry Schallock, Chair, called the meeting to order at 9:35 a.m. A quorum of six members was present.

AGENDA

Addition to Agenda:

- Addition to Item 7. a. (Red Folder) "NAB Annual Meeting"
- Addition to Item 13. a. "Health and Aging Services Administration Certificate"

MOTION: Robert Kessler moved, seconded by David Egan, to approve the agenda with additions. Motion carried unanimously.

ELECTION OF OFFICERS FOR 2004

The Nursing Home Administrator Examining Board held open elections for Board Officers for 2004.

MOTION: Robert Kessler moved, seconded by David Egan, to retain the same officers. Jerry Schallock, Chair; Robert Mulder, Jr., Vice Chair; and Patricia Schulz, Secretary. Motion carried unanimously

**APPOINT BOARD REPRESENTATIVES FOR SCREENING PANEL
2004 SCREENING PANEL APPOINTMENTS**

Jerry Schallock, Chair, called for Board members to serve on the screening panel.

MOTION: Patricia Schulz moved, seconded by David Egan to retain the same screening panel members, Jerry Schallock and Robert Mulder. Motion carried unanimously.

APPROVAL OF MINUTES OF DECEMBER 18, 2003

MOTION: Patricia Schultz moved, seconded by Robert Kessler, to approve the minutes of December 18, 2003 as written. Motion carried unanimously.

**ADMINISTRATIVE REPORT
JERRY LOWRIE, BUREAU DIRECTOR, BUSINESS AND DESIGN
BOARD ROSTER**

Noted.

2004 MEETING DATES

The Board made a request to change December 16, 2004 to a date in November

MOTION: Robert Mulder moved, seconded by David Egan, to approve the November 11, 2004 meeting date. Motion carried unanimously.

**SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY
CASES AND ADMINISTRATIVE RULES**

Noted.

TO DO LIST

Noted.

CHANGES TO ADMINISTRATIVE RULE MAKING PROCEDURES

Jerry Lowrie reported on the new "Changes to Administrative Rule-Making Procedures Required in 2003 Wisconsin Act 118." These changes will require more research regarding rule-making procedures. Some changes include private sector fiscal estimates, additions to scope statements, additions to draft rule reports and additions to legislative reports.

**TRAVEL
NAB 2004 ANNUAL MEETING, NEW YORK, NY, JUNE 16-18, 2004**

MOTION: Robert Kessler moved, seconded by Patricia Schulz to nominate David Egan to attend the NAB 2004 Annual Meeting, NY, on June 16-18, 2004 with Robert Mulder as an alternate. Motion carried unanimously

LEGISLATIVE UPDATE

PROPOSED LANGUAGE CHANGES - REVISIONS TO HFS 132-DAVID EAGAN

David Egan reported on the modified language changes to HFS 132. The Board reviewed and discussed the proposed changes made by the HFS 132 Nursing Home Task Force. The Task Force is working together to formulate changes to HFS 132 which are consistent with federal standards of practice. The Task Force will present changes in smaller sections to the Legislature.

AB 16 REQUIREMENTS FOR NURSING HOME ADMINISTRATOR LICENSES UPDATE JERRY SCHALLOCK

Jerry Lowrie reported that Assembly Bill 16 did not make it to the Senate floor. The Department anticipates that new rules and Bills for the Boards will be complete and ready to go at the start of the 2005 session.

AB 314 LICENSING HOSPITAL ADMINISTRATORS AND GRANTING RULE- MAKING AUTHORITY

Jerry Lowrie reported that AB 314 went to the Committee on Health and received a hearing.

AB 314 would significantly change the composition of the Board, with hospital administrators being a part of the make up. According to Rep. Johnsrud's legislation, the membership would consist of 3 instead of the current 5 NHA representatives, and one NH nurse, and an equal number of hospital administrators and a hospital nurse. The board did not take a position on the legislation but did highlight some of their concerns. The Board will take a position on AB 314 when introduced again at the next legislative session.

The Department of Health and Family Services licenses hospitals but not the individual hospital administrators.

AB 451 MANDATORY OVERTIME HOURS WORKED BY HEALTH CARE WORKERS EMPLOYED BY HEALTH CARE FACILITIES AND PROVIDING PENALTIES.

Jerry Lowrie reported that AB 451 received a hearing with the Committee on Labor but did not make it past the hearing.

ADMINISTRATIVE RULES CHEATING ON EXAMINATIONS-RL 4 - JERRY LOWRIE.

Jerry Lowrie reported on the Department's universal cheating policy. The new RL 4 rule will create consistency and efficiency regarding discipline. Mr. Lowrie requested

comments from the Board regarding the Department's new cheating rule. Boards will still use their discretion regarding discipline.

PRACTICE ISSUES UNAUTHORIZED PRACTICE OF LAW

Jerry Lowrie reported on the unauthorized practice of law. The new definition of law may have an impact on how professions within our Department can conduct business. Some of the practices may constitute the unauthorized practice of law because they may be giving legal advice.

Mr. Lowrie summarized the background history on what the State Bar is trying to accomplish before the Supreme Court. The State Bar wants a committee to establish a new definition of law and to define what is not the practice of law. The Supreme Court is considering appointing a committee to promulgate rules and establish a regulatory system related to the unauthorized practice of law.

Secretary Donsia Strong Hill will attend a hearing today before the Supreme Court to oppose the new definition of the practice of law.

REINSTATEMENT/RENEWAL CONDUCTING BACKGROUND CHECKS

The Board discussed at length conducting background checks on reinstatements and out-of-state candidates and believes that the credential holder should be responsible for any fees involved. Applicants pay a \$6.00 fee in Wisconsin when a background check is necessary. Judy Mender reported that the Department conducts a criminal background check prior to applicants receiving a license and for applicants that have to retake the examination prior to reinstatement, but only in the State of Wisconsin. The Department does not conduct a background check from other states where the candidate has held a credential for new licensees, reinstatements or renewals. The Board noted that nursing home administrators conduct background checks on all their employees prior to hiring, and every four years.

The Board would like to adopt a minimum standard and go on record requesting that the Department conduct background checks from all states where an applicant has ever held a credential for all new applicants and reinstatements. The Board requested that Department staff update the application form in order for the applicant to provide this information at the time of licensure. "Have you been licensed in any other states and in what profession(s)?"

Because law enforcement officials and the Department of Justice are required to provide information to the National Data Bank on criminal convictions the Board discussed obtaining information from the National Data Bank on applicants prior to licensure. A National Data Bank Report *could be* a requirement prior to licensure and for reinstatements. The applicant would be responsible for requesting the National Data Bank report and for

any fees. The National Data Bank report would indicate if they ever held a nursing license, list any discipline, and each state where they held a credential.

The Board discussed checking military records, and caregiver registries that may show negative findings. The equivalency of the State Department of Justice is available in other states for checking on criminal backgrounds. The Department of Health Family Services has a list of contact people from every state to request background checks. The Board will continue this discussion at the next meeting.

MOTION: Robert Kessler moved, seconded by David Egan, that the Department evaluates conducting criminal background checks on applicants from other states including military and caregiver registries. Motion carried unanimously

CE COURSE APPROVAL – V. JEAN MORRIS - LYDIA BRIDGE

The Board reviewed and discussed a request from V. Jean Morris to have four courses she took from St. Joseph's College be applied toward her continuing education requirement.

MOTION: Dave Egan moved, seconded by Robert Mulder to approve the four courses V. Jean Morris completed at St. Joseph's College as meeting the requirement for 24 continuing education credits subject to receipt of official transcripts verifying completion of the courses. Motion carried unanimously

EDUCATION/EXAMINATION ISSUES HEALTH AND AGING SERVICES ADMINISTRATION CERTIFICATE JERRY SCHALLOCK

The Board reviewed and discussed the Health and Aging Services Administration Certificate (HASA) developed by the University of Wisconsin-Eau Claire. Mr. Schallock will send a letter to UW Eau Claire to request that the school inform the students that they must accumulate 2000 practical experience hours prior to licensure and to request documentation from UW Eau Claire on 2000 practical experience hours.

MOTION: Robert Kessler moved, seconded by Dave Egan to approve the Health and Aging Services Administration Certificate as a program of study for education as a specialized course. Motion carried unanimously

BOARD MEMBER ACTIVITY

David Egan testified on AB 16.

**MISCELLANEOUS CORRESPONDENCE/INFORMATION-NEW LICENSE
FORMAT
BLUE LICENSES**

Jerry Lowrie reported that starting April 1st the blue renewal license form and the temporary license form will be changed to be the bottom third of a full-size sheet of paper. It will have horizontal and vertical perforations to remove it from the rest of the sheet. While the sizing will be a bit different for the bigger part of the license, it will be quite close in shape to what we currently have and the wallet card will be the same size. Advantages are:

1. Licenses printed from regular laser printers.
2. Several security features in the paper the Department is purchasing, including the watermark on the back and some invisible fibers.
3. Ability to print one mailing address at the top of the form and a different physical address on the actual license (This is great for establishments that cannot receive mail at the actual location).
4. Additional sequence numbering allowed above the mailing address, which will help in the machine inserting process at DOA at renewal time.

NEW BUSINESS

None.

CLOSED SESSION

MOTION: Jerry Schallock moved, seconded by Patricia Schulz, to convene the meeting in Closed Session pursuant to sections 19.85(1)(a), (b), (f) and (g), Wis. Stats.: to consider the licensing or discipline of a person licensed by the Board or the investigation of charges against such a person, and to discuss the case status report and case closings. Roll Call Vote: Dr. Robert Kessler - yes; Patricia Schulz - yes; Robert Mulder- yes; Jerry Schallock – yes; David Egan – yes; Patricia Benesh (non-voting member) - yes. Motion carried unanimously.

Open Session recessed at 11: 55 a.m.

The Board deliberated on pending applications, case closings, monitoring issues, and an administrative warning in Closed Session.

RECONVENE IN OPEN SESSION

MOTION: Patricia Schulz moved, seconded by Robert Mulder, to reconvene in Open Session at 12:20 p.m. Motion carried unanimously.

CASE CLOSINGS

None.

MONITORING

VINCENT BERGSTROM 01 NHA 018

MOTION: Robert Kessler moved, seconded by David Egan, to adopt the order reinstating Vincent Bergstrom limited license for 3 months. Motion carried unanimously

STIPULATION

LYNETTE M. DULEY-CULVER 02 NHA 019

MOTION: David Egan moved, seconded by Robert Kessler to adopt the Findings of Fact, Conclusions of Law, Order and Stipulation in the matter concerning Lynette M. Duley-Culver 02 NHA 019 as redrafted. Jerry Schallock, case advisor. Motion carried unanimously

**ADMINISTRATIVE WARNINGS
PENDING APPLICATIONS
EXAMINATION ISSUES**

None.

OTHER SUCH ITEMS AS AUTHORIZED BY LAW

The Board questioned the length of time it has been taking to move cases forward in the Division of Enforcement.

Jack Temby met with the Board to explain the process of moving cases within the Department. Mr. Temby stated that Board members could receive updates on cases by calling the investigator assigned to a particular case and if the explanation of the investigator does not meet with their satisfaction, they may call the supervisor of the investigator. The Division of Enforcement has been prioritizing cases and getting the older cases resolved first as they currently have the highest priority. When the older cases are resolved, staff will move on to newer cases.

ADJOURNMENT

MOTION: David Egan moved, seconded by Robert Mulder to adjourn the meeting at 12:25 p.m. Motion carried unanimously

NEXT MEETINGS: JUNE 17, 2004

Suggested Agenda Items for June 17, 2004:

Reinstatements and Renewal -Continue verification discussion